



# City of Bandon

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*Bandon by the Sea*

**MINUTES  
CITY OF BANDON CITY COUNCIL  
AND URBAN RENEWAL AGENCY BOARD  
SPECIAL MEETING**

COUNCIL CHAMBERS, 555 HIGHWAY 101, BANDON, OR 97411  
WEDNESDAY, FEBRUARY 21, 2024  
Livestreamed via Zoom Meetings

**COUNCIL MEMBERS PRESENT:**

Mary Schamehorn, Mayor  
Joshua Adamson, Councilor  
Peter Braun, Councilor  
Chris Powell, Councilor  
Geri Procetto, Councilor  
Madeline Seymour, Council President  
Brian Vick, Councilor

**STAFF PRESENT:**

Torrey Contreras, City Manager  
Shala Kudlac, City Attorney  
Paula Burris, Finance Director  
Dana Nichols, Planning Director  
June Hinojosa, City Recorder  
Sgt. Matthew Whitmer, Bandon Police  
Officer Zack Carpenter, Bandon Police  
Officer Jesse Macy, Bandon Police  
Nicolette Cline, Planning Assistant  
Richard Taylor, Minutes Clerk

**1. CALL TO ORDER/ROLL CALL**

Schamehorn called the meeting to order at 6:00 p.m. Roll Call was taken as indicated above.

**2. PUBLIC HEARING ITEMS – Public Hearing items are required to be duly noticed and are subject to public comment.**

**2.1 A *de novo* Public Hearing for the Appeal of the Planning Commission approval of Planning Action 23-045, a request for a Conditional Use Permit to construct a new 110-room hotel, two restaurant spaces, meeting rooms, and spa, as well as 32 villas/suites and a site plan review for commercial design standards, parking, and signage on property zoned Controlled Development 1 in the City of Bandon. The subject property is located at Township 28S Range 15W Section 36BC Tax Lot 219 and Section 36C Tax Lots 400, 500, 600, 700, and 1500.**

Schamehorn opened the Public Hearing at 6:02 p.m. The applicable substantive criteria for approval of the application were contained in the following Bandon Municipal Code sections:

- 17.20 Conditional Uses in the Controlled Development 1 (CD-1) zone
- 16.12 Conditional Uses
- 17.94 Commercial Design Standards
- 17.96 Off-Street Parking and Loading
- 17.90 Signs
- 16.04.070 Type III Procedure – an appeal of reviewing body's decision of the Bandon Municipal Code and the policies of the Comprehensive Plan

A Notice of Appeal was filed by the Oregon Coast Alliance (ORCA) and a separate Notice of Appeal was filed by Mr. Bruce Spencer, a Bandon resident.

Schamehorn: Declared *ex parte* contact. In late 2023, contacted Sheri McGrath, consultant for the Gravel Point project, asking what projects had been completed by PERK Development, the Gravel Point developer. Was called by Bret Perkins of PERK, who told her they had not developed any projects and gave her names of venture capitalists who might fund Gravel Point. Schamehorn asked McGrath to have Perkins provide information in writing about PERK's potential projects in Coos Bay. Was contacted by the city's attorney who had been contacted by the developer's attorney, who told her she had made *ex parte* contact.

Schamehorn apologized for having made that contact while trying to learn about projects PERK had already developed, though not seeking information about the project itself.

Braun: Visited the site two days earlier for a better understanding of the location and its topography.

Nichols presented the Staff Report, accompanied by a slideshow.

- Proposed uses of the subject property—hotel/motel and commercial retail sales and services—are listed as conditional uses in the CD-1 zone.
- An aerial map showed the project would be bounded by Face Rock Drive on the north, Beach Loop Drive and a neighborhood along Strawberry Drive on the west, part of the Donut Hole to the east, and residential neighborhoods along Carter Avenue and Three Wood Drive to the south.
- An overview of the site plan showed the central location of the two lodges, with villas spreading out toward the north and south. Renderings and elevation drawings of the lodges and villas were displayed.
- Developer planned a new street configuration and would request vacation of existing platted roads within the subject property in a separate application to be heard by the Council at a future date.
- After multiple Public Hearings and testimony, the Planning Commission had approved the Gravel Point application with conditions on November 2, 2023. A Notice of Decision was mailed on November 7, 2023. Two valid appeals were received.
- Changes were made in the application after the Planning Commission’s approval:
  - Applicant withdrew the hotel height variance request; only an elevator shaft would exceed the 28-foot height limit, reaching 35 feet within the CD-1 standards.
  - Number of vehicle parking spaces was increased to 178, with nine dedicated RV spaces.
  - Decreasing the building height caused an increase in size for the two lodges and a slight building coverage increase.
  - A more concrete road and infrastructure proposal was submitted, clarifying setbacks.
- Staff determined the application comported with the intent of the CD-1 zone and met the standards for development.
- Utilizing the site’s topography, only 8.5% percent would be developed; 80% would be open space.
- Significant screening and buffering along property lines was planned to minimize the project’s impact on surrounding neighborhoods.
- Although finding the City had sufficient utility and infrastructure capacity to support the development, Staff added conditions for a construction traffic mitigation plan and a storm drainage mitigation plan.
- Staff recommended approval of the applicant’s request for a two-year Conditional Use Permit.
- The City’s Water Master Plan determined the City had sufficient water rights and water plant capacity to cover its projected growth but lacked raw water storage. City Engineer confirms current potable water supply can serve the applicant’s proposed use. If the water line on Beach Loop Drive needs an upgrade, the developer’s System Development Charges (SDCs) will help cover the cost.
- Transportation studies estimated that the development’s impact on key intersections would not exceed Oregon Department of Transportation (ODOT) or City of Bandon standards.
- A street connecting Face Rock Drive to 20<sup>th</sup> Street SW to Highway 101 would be outside the project site boundaries and would cross through private properties not within Bandon City Limits. It could be developed as a collector street when development happens on those properties.
- Staff conducted a Plan Review addressing signage, commercial design standards, and parking.
- The project site contained two identified but not significant wetlands, not subject to protection.

**Dan O’Connor, O’Connor Law, LLC, attorney for the applicant:** O’Connor introduced representatives of the applicant who were present:

Garrett West, O’Connor Law  
Sheri McGrath, Coos Curry Consulting  
Darren Sandeno, Parametrix

Brett Perkins, PERK Development  
Chris Bell and Mark Giles, DLR Group

**O'Connor:** Developer's objective is to develop a first-class hotel site in the City of Bandon. Application meets all applicable standards and criteria. Applicant agrees with Conditions of Approval in the Staff Report. Thanks to City Staff for helping the applicant bring forward a better proposal than what was initially approved by the Planning Commission.

Responding to the appeal by ORCA, the Meadow Lodge height was lowered.

Revised application reflects a right-of-way configuration requested by the City and addresses the concerns of residents on Lincoln Avenue, Spinnaker Drive, and Carter Avenue. Applicant agrees to construct a barrier on the Gravel Point side of Carter Avenue to prevent entry or exit. Signs would be placed around the hotel to direct guests toward Beach Loop Drive.

In response to questions in Spencer's appeal about the development's economic benefits to the City of Bandon, the total SDCs for the project would be \$1,311,971. Annual real property taxes would come to \$903,000, of which the City's share would be around \$250,000. Based on 50% occupancy, \$1,673,000/year was expected in Transient Occupancy Taxes (TOT).

Including structures and other impervious surfaces, the project would have only 20% lot coverage, leaving 80% as open space. The site could potentially have become a 200-home residential development with 65% impervious surfaces.

The developer wants to be part of the community. Will provide walking paths open to the public throughout the property and contribute \$20,000 to the City toward engineering and planning for a pathway along Beach Loop Drive when the building permit is issued.

The project will be developed to Gold LEED (Leadership in Energy and Environmental Design) Standard Equivalent, with a "living roof."

Applicant requests that the appeals be denied and the application approved.

**Schamehorn:** ORCA submitted a 1,000-page document at the 3:00 p.m. deadline on the day of the hearing. Previous submission, from attorney Sean Malone, dated November 23, 2023, mainly concerned the height variance, which had since been removed from the application.

**Cameron LaFollette, Executive Director, ORCA, appellant:** Due to new material submitted, ORCA requested that the record be left open for at least seven days. Details supporting ORCA's testimony were in the new documents submitted earlier in the day.

Bandon does not have infrastructure capacity to allow approval of the project. Cited memo by Mary O'Dea and Sheryl Bremmer stating the City's Water and Wastewater Plants were operating beyond their capacity and service life. Future water needs could not be met by Geiger Creek or Ferry Creek. No funding available for deferred maintenance and delayed capital improvements. Existing hydrant flow deficits hamper fire suppression and would worsen with this new development.

The City's reliance on TOT for revenue is not a legal ground for approval of the application.

**Bruce Spencer, Bandon Resident, appellant:** Representatives of the applicant promote the benefits of their project but will not address the deficiencies, drawbacks, and negatives.

Issues such as jobs and taxes are not applicable to the sections of the code that determine the approval or denial of the application but were mentioned by the applicant. The TOT estimate is questionable, being based on an average \$1,400/night for villas and \$470/night for hotel rooms. Added taxes would increase those figures to \$1,554 and \$522—considerably more than existing hotel rooms or vacation rentals in Bandon.

Local workers are not likely to be involved in constructing this project. More money would stay in the community if single-family residences were built on the same property.

Applicant has tried to limit public's right to testify in the hearing. Numerous specific criteria for approval required by Bandon Municipal Code (BMC) have not been met. Developer does not have experience and ability to complete a project of this scale. Project is not appropriate for Bandon. Substantial number of Bandon residents have concerns. Council does not need to make a decision at this hearing.

**PUBLIC COMMENT:**

**Neal Barlow, Bandon resident:** Would rather have a hotel that is trying to be environmentally friendly than same property being bulldozed and filled with homes without regard to the environment. This is the right place for a hotel. Property taxes in Bandon are low and the City relies on lodging tax. New houses are actually a liability in terms of City services they require versus property tax paid.

**Schamehorn:** Bandon does not have a low property tax because of the TOT. The property tax is statutorily low and cannot go up because the City owns its utilities and collects utility fees. Bandon cannot raise utility rates without voter approval.

**Catherine Mills, Bandon resident:** Ocean Trails subdivision neighboring the Gravel Point project is zoned R-1, which does not allow access to a commercial complex. Original street configuration on the subject property was for residential use. 85 residents of the neighborhood signed a petition requesting Carter Avenue to be blocked like Madison Avenue and Ohio Avenue.

**Sandra Schroeder, Bandon resident:** If Carter Avenue is opened, construction traffic will have an impact on her neighborhood. Also concerned about the project's impact on City infrastructure.

**Tim Terry, Bandon resident:** Not speaking for or against the proposed resort. Seabird Drive and Beach Loop Drive serve mainly residential areas. Traffic, first from construction equipment and later from hotel guests, will substantially increase on these roads. New access to the project from Highway 101 would be preferable.

**Robert Schroeder, Bandon resident:** Neutral on the project. It is well designed. Modifications have been made that make sense, but the project team has not adequately addressed congestion on Beach Loop Drive. Trail through the resort will primarily be used by guests and not help those who walk on Beach Loop Drive. Would like developer to make financial commitment toward development of walkway along Beach Loop Drive. Urges the City to work with ODOT toward traffic light at Seabird Drive and 101 and to commit to future extension of Edna Lane to Gravel Point site.

**Rick Morris, Bandon resident:** Circles in the Sand is a small activity that creates traffic problems for the surrounding neighborhood. Concerned about emergency access in the event of fire, earthquake, or tsunami. Supports project's efforts to protect the natural environment. A route to 101 is imperative and should be built at the developer's expense.

**Steven Rinkle, Bandon resident:** Not in favor of the development in current iteration. Adding access to Gravel Point from Carter Avenue would exacerbate the burden already placed on Spinnaker Drive and Lincoln Avenue, which provide the only access to dozens of homes in Ocean Trails subdivision. Agrees with proposed barrier on Carter Avenue. Recommends post-construction traffic mitigation plan.

**Mike Claasen, Bandon resident:** Surprised that Gravel Point was approved, given years of serious water and sewer problems in Bandon. Concerned about increased traffic on Beach Loop Drive, with so much pedestrian traffic. More than just \$20,000 is needed to improve the walkway.

**Kay Hardin, Bandon resident:** What projects has the developer already completed? Would like to be able to see them and verify their work.

**"Bear" Slothower, Bandon resident:** The ORCA representative cited unsubstantiated information and has no idea what is happening in Bandon. City Staff has told him the infrastructure can support the project. From 200 to 500 people attend Circles in the Sand events for a few hours. There is a shuttle service to the event, but it still creates much more traffic than Gravel Point would. The project would be good for Bandon.

**Nancy Post, Bandon resident:** Beach Loop Drive is one of Bandon's most significant scenic resources. It is on the Oregon Coast Bike Route and is world famous. The traffic impact study only addresses intersections, not the condition of the roadway. It is time to begin talking about solutions for Beach Loop Drive, though they may be complicated and expensive. Dumping more traffic onto Beach Loop Drive to keep traffic off Carter Avenue, Lincoln Avenue, and Spinnaker Drive is not a wise solution. Pathways through Gravel Point do not offer a view except into the backyards and windows of Strawberry Drive residences.

**Jen Procter Andrews, Bandon resident:** What is being given away to the developer? The property is irreplaceable. What kind of community benefits package—if any—has been negotiated with the developer? The development will completely change the area.

**Pam Jenson, Bandon resident:** Traffic from Gravel Point should not all be directed onto Beach Loop Drive, where most Bandon visitors already want to drive. Resort employees will also have to use Beach Loop Drive to come and go from work. Traffic has increased significantly on Beach Loop Drive in recent years. Concerned about whether Beach Loop Drive will be able to handle an evacuation.

**Kammie Bunes, Bandon resident:** Developer should be required to pay to extend Edna Lane so the resort can be accessed directly from 101. Complete improvements should be made along Seabird Drive and Beach Loop Drive for safety's sake. ORCA acts on behalf of the values of the ocean shore and the best interests of Bandon. Their contribution should not be disparaged.

**O'Connor (applicant's rebuttal):** Strongly disagree with ORCA concerning capacity of utilities, having met with engineers, and having reviewed the City Engineer's presentation of the current Water Master Plan to the City Council. ORCA referred to the 2003 Water Master Plan instead of the 2022 plan. There is no evidence that any City utility has insufficient capacity.

Regarding criticism of developer's \$20,000 contribution toward a Beach Loop Drive pathway study, it would be in addition to \$305,000 transportation SDC paid by the developer at the time a building permit is issued. A previous miscalculated water SDC amount has been corrected and all SDC figures have been vetted by the City.

Quarterly meetings with neighbors are anticipated during the construction phase. Issues will arise during construction of a large project, and the developer welcomes being contacted and resolving issues. Developer was born and raised in Coos Bay and looks forward to working with the City.

Requesting the City impose a barrier on Carter Avenue at the Gravel Point property's boundary line, as brought up several times in public testimony.

#### **STAFF COMMENT:**

**Nichols:** Beach Loop Drive, Seabird Drive, and 11<sup>th</sup> Street SW are termed "collectors" in the City's Transportation System Plan (TSP). Franklin Avenue is also shown as a collector in the TSP, with an unopened portion that eventually will go through the Donut Hole and connect with Seabird Drive to alleviate some of the congestion on Beach Loop Drive.

The Staff Report did not mention a Condition of Approval requiring the applicant to sign an anti-remonstrance agreement to the formation of a Local Improvement District (LID) covering the developer's share of the construction of sidewalks and bicycle lanes on Beach Loop Drive. The Council has funded planning for a pathway on Beach Loop Drive. The City hopes to obtain grant funding and install those facilities before the Gravel Point project, if approved, is completed.

Bandon's Water Master Plan indicates the Water Treatment Plant has capacity beyond what is needed for anticipated growth. When an application reaches the building permit phase, the County will review the plan for consistency with fire flows and call for an upgrade if necessary. Additional reservoir might be required in the future to equalize pressure in southern part of the City. Dredging project is underway to triple the capacity of the City's raw water impoundment facility.

#### **QUESTIONS FROM COUNCIL:**

**Schamehorn:** ORCA's written testimony stated Bandon's former Fire Chief said the City could not meet state fire codes due to a substandard water system in some areas. According to measurements provided by the Public Works Director, fire flows on two existing hydrants near the project site were inadequate.

**Sandeno:** Developer still must verify location of hydrants and size of water line to get a better sense of how to address any deficiencies in fire flow. Hydrants can be modified to increase flow and sprinklers and sequestered rainwater might be used to supplement fire flow.

**Contreras:** Building codes and fire codes dictate the spacing of hydrants on site and development will be subject to fire flow requirements. A Condition of Approval can be added to cover this.

**Procetto:** What projects has developer done and where?

**Perkins:** As Director of Project Development for C.W. Driver, a southern California construction company, has been involved with over 20 projects in the past six years, served four years in the Global Real Estate Facilities Department at Exxon/Mobil, developed residential projects in Hawaii and southern California, and single homes in Coos Bay. Began PERK Development, a real estate and project development firm, in 2019. Bandon Beach Ventures, Gravel Point property owner since July 2022, is owned by Stuart Jacques from Anchorage, Alaska.

**Vick:** Were the TOT figures presented by the applicant based on a room rate of \$400/night?

**O'Connor:** TOT was based on \$470/room and \$1,400/suite, with a 50% occupancy rate.

**Vick:** The occupancy rate is reasonable but room rate is exorbitant.

**Perkins:** Hospitality market study was conducted by a Portland consultant, focusing on Bandon Dunes and similar Oregon facilities.

**Braun:** What is the possibility of connecting Edna Lane to Face Rock Drive?

**Nichols:** Two properties abutting the project site do not contain platted rights-of-way. When those properties are developed, the City could require a right-of-way to be dedicated to the City so connection could be made to 101. The City required Gravel Point to maintain a right-of-way near the north end of the site for potential future access to an east-west connection to Highway 101 through the Donut Hole, which will be challenging due to wetlands.

**Schamehorn:** A connection to 101 would take away a lot of the concerns people have expressed. This has always been a big problem for Bandon.

**Seymour:** Was an east-west connection considered when the project was conceived?

**McGrath:** Future connection points were incorporated into the plan after discussions with the City. Seymour moved to close the Public Hearing and the record. Procetto seconded.

**Braun:** If the Council closes the record, could it be grounds for appeal?

**Kudlac:** There has been ample opportunity for submissions to the Council. The record is only required to be open at the first evidentiary hearing. Case law states it is not appealable if the record is closed at the final hearing.

The motion to close the hearing passed by unanimous show of hands vote (6:0:0):

AYES: Adamson, Braun, Powell, Procetto. Seymour, Vick  
NAYS: None  
ABSENT: None

### **COUNCIL DELIBERATIONS (8:32 p.m.):**

**Seymour:** Concerned about fire suppression and traffic.

**Procetto:** Same concerns.

**Schamehorn:** Must be a barricade on Carter Avenue and a firm plan for construction traffic.

**Contreras:** Added suggested Conditions of Approval:

- A post-construction vehicular circulation plan for mitigating potential traffic impacts to a level of insignificance, subject to the City's approval, required from the developer within six months of the issuance of a Certificate of Occupancy; and
- Project shall be required to comply with all applicable fire department requirements relative to fire flow and life/safety measures, pursuant to the building code.

**Schamehorn:** Bandon Rural Fire District should be consulted.

**Contreras:**

- Apply the \$20,000 contribution pledged by the developer to a transportation circulation route study to investigate the feasibility of an east-west connection and the potential closure of Carter Avenue for emergency access only.

**Schamehorn:** Would like to see what happens to traffic on Beach Loop Drive after the resort is in operation.

**Contreras:** Impressed with applicant's willingness to work with the community, by holding a public meeting, soliciting input from local residents that resulted in redesigning some project elements to allay community concerns.

Seymour moved to deny the appeals and approve the application and Staff Report, along with Staff's proposed Conditions of Approval and those Conditions read into the record by the City Manager. Braun seconded the motion and it passed by roll call vote (4:2:0):

AYES: Adamson, Braun, Powell, Seymour  
NAYS: Procetto, Vick  
ABSENT: None

**3. ADJOURN**

Schamehorn adjourned the Special Meeting at 8:45 p.m.